



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/158958

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed July 11, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Sheboygan County Department of Human Services in regard to Medical Assistance, a hearing was held on August 06, 2014, at Sheboygan, Wisconsin.

The issue for determination is whether Petitioner's appeal is timely.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

|

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Mitch Birkey

Sheboygan County Department of Human Services  
3620 Wilgus Ave  
Sheboygan, WI 53081

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Sheboygan County.
2. Petitioner filed this appeal to contest the discontinuance of his BadgerCare+ eligibility effective September 1, 2013.
3. A Notice of Decision dated July 16, 2013 was sent to Petitioner at the above address that informed him that as of August 1, 2013 he had to pay a premium in the amount of \$65.00 per

month to maintain his BadgerCare+ eligibility. Appeal instructions were included and an appeal deadline of September 16, 2013 was noted.

4. A Notice of Decision dated July 30, 2013 was sent to Petitioner at the above address that informed him that the BadgerCare+ premium amount was \$52.00 per month effective August 1, 2013. Appeal instructions were included and an appeal deadline of September 16, 2013 was noted.
5. A Notice of Decision dated August 19, 2013 was sent to Petitioner at the above address that informed him that his BadgerCare+ eligibility would end September 1, 2013 because his BadgerCare+ premium had not been paid for August 2013. Appeal instructions were included and an appeal deadline of October 17, 2013 was noted.
6. None of the notices described above were returned to the agency as undeliverable.
7. This appeal was filed with the Division of Hearings and Appeals on July 11, 2014.

### **DISCUSSION**

In order for the Division of Hearings and Appeals to have authority to make a determination on the merits of a matter it must have authority to do so. It does not have authority where an appeal is untimely. A timely hearing request concerning Medicaid matters must be filed within 45 days of the effective date of the agency decision. §49.45(5)(a), *Wis. Stats.*

Here Petitioner contends that he had not received any of the notices referred to in the Findings. Thus he reasons that the Division of Hearings and Appeals should find the appeal to be timely.

Petitioner could not describe or document mail delivery issues.

This appeal is not timely. Further, the Division of Hearings and Appeals has no authority to expand appeal time limits where adequate notice has been given.

### **CONCLUSIONS OF LAW**

That Petitioner's appeal was not timely filed thus the Division of Hearings and Appeals has no legal authority to make a decision on the merits of the September 1, 2013 BadgerCare+ discontinuance.

**THEREFORE, it is**

**ORDERED**

That this appeal is dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as

"PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 5th day of September, 2014

---

\sDavid D. Fleming  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on September 5, 2014.

Sheboygan County Department of Human Services  
Division of Health Care Access and Accountability